

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Paul Baron	Team: Team # 4	CCRB Case #: 200913807	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 09/03/2009 10:37 PM	Location of Incident: [REDACTED]	Precinct: 23	18 Mo. SOL 03/03/2011	EO SOL 3/3/2011	
Date/Time CV Reported Fri, 09/04/2009 2:39 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/04/2009 2:39 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Theohari Koumniotes	15817	[REDACTED]	MN IRT
2. POM Edwin Rodriguez	26911	[REDACTED]	MN IRT

Officer(s)	Allegation	Investigator Recommendation
A. POM Theohari Koumniotes	Abuse of Authority: PO Theohari Koumniotes stopped the car in which § 87(2)(b) was an occupant.	[REDACTED]
B. POM Edwin Rodriguez	Abuse of Authority: PO Edwin Rodriguez stopped the car in which § 87(2)(b) was an occupant.	[REDACTED]
C. POM Theohari Koumniotes	Abuse of Authority: PO Theohari Koumniotes searched the car in which § 87(2)(b) was an occupant.	[REDACTED]
D. POM Theohari Koumniotes	Off. Language: PO Theohari Koumniotes made remarks to § 87(2)(b) based upon ethnicity.	[REDACTED]

Case Summary

§ 87(2)(b) filed the following complaint over the phone with the CCRB on September 4, 2009. At about 10:37 p.m. on September 3, 2009, PO Theohari Koumniotes and PO Edwin Rodriguez of the 174th Precinct pulled over § 87(2)(b)'s vehicle at the corner of § 87(2)(b). The following allegations resulted from the officers' actions:

- **Allegation A – Abuse of Authority:** PO Edwin Rodriguez stopped the car in which § 87(2)(b) was an occupant. § 87(2)(g)
- **Allegation B – Abuse of Authority:** PO Theohari Koumniotes stopped the car in which § 87(2)(b) was an occupant. § 87(2)(g)
- **Allegation C – Abuse of Authority:** PO Theohari Koumniotes searched the car in which § 87(2)(b) was an occupant. § 87(2)(g)
- **Allegation D – Offensive Language:** PO Theohari Koumniotes made remarks to § 87(2)(b) based upon ethnicity. § 87(2)(g)

This case was reassigned from Inv. Ajayi to Inv. Baron on April 21, 2010.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On September 11, 2009, § 87(2)(b) provided a phone statement to the CCRB (encl.7.1). On September 22, 2009, the CCRB received from § 87(2)(b) a notarized statement and a copy of a summons from § 87(2)(b) (encl.7.4-7.6). The summary of § 87(2)(b)'s statement is drawn from his written statement, and the inconsistencies are noted below. At about 10:37 a.m. on September 3, 2009, § 87(2)(b) was driving and stopped for a stop light on 108th Street between Fifth Avenue and Madison Avenue. He saw a white male officer (identified through investigation as PO Theohari Koumniotes) and a Hispanic male officer (identified through investigation as PO Edwin Rodriguez) searching some males. He had his radio on. § 87(2)(b) continued driving when the light changed, but he was pulled over by PO Koumniotes and PO Rodriguez at the corner of § 87(2)(b). PO Koumniotes and PO Rodriguez searched § 87(2)(b)'s vehicle without asking him for his license, registration, and insurance card. § 87(2)(b) said during his phone statement that PO Koumniotes asked him for his license and registration. One of the officers told § 87(2)(b) after he gave him his license, registration, and insurance card that he stopped his vehicle because the radio and the muffler of

his car were loud. He only said that he had factory made radio and muffler and that if his car was improper he would not have been given the inspection sticker. When § 87(2)(b) told PO Koumniotes that he should have stayed in the mechanic business, PO Koumniotes replied this is “why I don’t like Spanish people.” PO Koumniotes told § 87(2)(b) that “wherever I see you, I will stop you.” After which, PO Koumniotes issued him a summons (# § 87(2)(b)) for “unreasonable noise.”

NYPD Statements:

Subject Officer: PO THEOHARI KOUMNIOTES

- § 87(2)(b)
- 5:30 p.m. on September 3 to 2:05 a.m. on September 4, 2009; Mobile Post 2 with PO Rodriguez, uniform, RMP # 4417.

On November 18, 2009, PO Theohari Koumniotes was interviewed at CCRB (encl. 8.1-8.6). His memo book corresponded with his statement. On the incident date, he noticed that a four-door sedan was parked at a no-standing area when PO Rodriguez made a right turn from Park Avenue on to East 108th Street in Manhattan. When PO Rodriguez pulled the patrol vehicle about five feet away from the four-door sedan, an unidentified male that was seated on the passenger’s side of the four-door sedan exited the vehicle and walked away. § 87(2)(b) who was in the driver’s seat of the four-door sedan noticed the officers and reached towards the side of his body and towards the door panel on the driver’s side. This made PO Koumniotes suspect that § 87(2)(b) and his passenger had been doing something illegal. PO Koumniotes and PO Rodriguez approached § 87(2)(b)’s vehicle. He did not recall if he heard music playing or if the music was loud when he approached § 87(2)(b)’s vehicle. PO Koumniotes asked § 87(2)(b) if he was okay, and he said he was fine. § 87(2)(b) started his car engine and placed his vehicle in reverse. PO Koumniotes told § 87(2)(b) to put his vehicle on park, and § 87(2)(b) complied. PO Koumniotes asked § 87(2)(b) what he placed on the door panel of his vehicle and § 87(2)(b) said nothing. He also asked § 87(2)(b) if there was anything in the vehicle that he should know about, and § 87(2)(b) said “No, and you are not going to search it.”

PO Koumniotes asked § 87(2)(b) to exit his vehicle. He feared for his safety because he saw § 87(2)(b) reaching to his side and to the door panel, and thought that § 87(2)(b) may have a gun on his person. § 87(2)(b) exited the vehicle and then screamed and cursed at the officers, stating it was “fucking bull shit. You are fucking racist. Fuck you guys.” A crowd of about ten people began to gather at each corner of the location. Two officers also responded to the scene and provided their professional presence at the location. PO Koumniotes searched the “grabbable areas” where he saw § 87(2)(b) reaching towards the back seats of the vehicle. PO Rodriguez stood at the back of the vehicle with § 87(2)(b) and PO Koumniotes. PO Koumniotes did not tell § 87(2)(b) “that’s why I don’t like Spanish people.” At some point, PO Koumniotes asked § 87(2)(b) for his license and registration and § 87(2)(b) provided them to him. PO Koumniotes issued § 87(2)(b) two summonses for disorderly conduct and for parking his vehicle illegally in a no-parking zone on East 108th Street. He said that the “unreasonable noise” in the disorderly conduct summons that he gave to § 87(2)(b) was referring to § 87(2)(b)’s behavior and not to a loud muffler or radio. PO Koumniotes did not recall anything about a muffler or recall having any conversation with anyone regarding a muffler.

Witness Officer: PO EDWIN RODRIGUEZ

- § 87(2)(b)

- 4:30 p.m. on September 3, 2009 to 2:05 a.m. on September 4, 2009; Mobile Post 2 with PO Koumniotes, uniform, RMP # 4417.

On December 2, 2009, PO Edwin Rodriguez was interviewed at CCRB (encl. 9.1-9.5). He had no recollection of the incident even after he was given a brief synopsis of the incident. His memo book only provided information relevant to his tour and assignment.

NYPD Documents

Stop and Frisk Log

- This document did not indicate that PO Koumniotes and PO Rodriguez stopped and frisked § 87(2)(b) or any other individuals at the date, time, and location of the incident.

Summons

- Administrative code summons # § 87(2)(b) for “unreasonable noise” was issued to § 87(2)(b) by PO Koumniotes at 10:37 p.m. on September 3, 2009, at the corner of § 87(2)(b). On March 24, 2010, PO Karina Cisnero of the Manhattan North Impact Response Team informed the CCRB that PO Koumniotes issued only one summons to § 87(2)(b) after reviewing his records.

Summons and Disposition

- As of March 30, 2010, the CCRB was unable to determine the disposition of summons # § 87(2)(b) that was issued to § 87(2)(b) from Office of Court Administration.

Civilians Criminal History

- As of January 20, 2010, Office of Court Administration records reveal no criminal convictions for § 87(2)(b).

Civilians CCRB History

- This is the first CCRB complaint filed by § 87(2)(b).

Subject Officers CCRB History

- PO Theohari Koumniotes has been a member of the service for one year and there are no substantiated CCRB allegations against him (encl. 2.1).
- PO Edwin Rodriguez has been a member of service for two years and has no substantiated CCRB allegations against him (encl. 3.1).

Conclusion

Identification of Subject Officer

- PO Koumniotes acknowledged that he interacted with § 87(2)(b). PO Koumniotes said he was working with PO Rodriguez on the incident, which was corroborated by the roll call and PO Rodriguez’s memo book.

Investigative Findings and Recommendations

Allegations Not Pled

- § 87(2)(b) alleged that PO Koumniotes referred to § 87(2)(b) as a “Mo.” § 87(2)(b) took the phrase to mean “motherfucker,” but stated it has multiple other meanings. Since PO Koumniotes did not actually use any discourteous language, an allegation will not be pled.

Allegation A – Abuse of Authority: PO Edwin Rodriguez stopped the car in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: PO Theohari Koumniotes stopped the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) said his vehicle was pulled over by PO Koumniotes and PO Rodriguez as he was driving east-bound on East 108th Street. He said he was informed by one of the officers that he was stopped because the radio and muffler in his car were loud. PO Rodriguez had no recollection of the incident and did not recall stopping at the incident location at the time of the incident. PO Koumniotes, § 87(2)(g), said that PO Rodriguez's pulled up next to § 87(2)(b)'s vehicle because he was parked in a "No Standing" zone. He added that § 87(2)(b)'s vehicle was stopped because his suspicion was aroused by the fact that an unidentified male exited the vehicle when he saw them and by the way § 87(2)(b) was reaching towards his side and the door panel of his vehicle when he saw them. § 87(2)(b) said he was stopped for his radio or muffler being too loud, and the administrative code on his summons could refer to either violation or something else entirely. The summons PO Koumniotes issued to § 87(2)(b) was not for illegal parking. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Theohari Koumniotes searched the car in which § 87(2)(b) was an occupant.

It is not in dispute that PO Koumniotes searched § 87(2)(b)'s vehicle. § 87(2)(b) did not specify the areas that were searched, but PO Koumniotes said he searched the "grabbable areas" where he saw § 87(2)(b) reaching towards, as well as the back seats of the vehicle. PO Koumniotes stated that he searched the vehicle because he feared for his safety and assumed § 87(2)(b) had a weapon on him based on § 87(2)(b) reaching for his side and for the door panel. He also added that § 87(2)(b) told him that he could not search his vehicle after he asked § 87(2)(b) questions about what was inside of his vehicle. PO Rodriguez did not recall the incident. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Offensive Language: PO Theohari Koumniotes made remarks to § 87(2)(b) based upon ethnicity.

§ 87(2)(b) said PO Koumniotes told him that this is the reason "why I don't like Spanish people," when he told him he should have stayed in the mechanic business. PO Koumniotes denied making this comment or any derogatory remarks towards § 87(2)(b). PO Rodriguez also denied making this comment and added that because he was Hispanic, if someone had made that remark around him, he would have recalled. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Team: 4

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date